



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

May 16, 2017

Ms. Anita Crethers  
Office Assistant II  
Business Development & Procurement Services  
City of Dallas  
1500 Marilla Street, Room 3FN  
Dallas, Texas 75201

OR2017-10564

Dear Ms. Crethers:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 658013 (COD Ref. No. C001726-030617).

The City of Dallas (the "city") received a request for the scoring information of the requestor's bid in response to solicitation number BMZ1610. Although the city takes no position as to whether the submitted information is excepted under the Act, the city states release of the submitted information may implicate the proprietary interests of Russell Corrosion Consultants, LLC ("Russell"); Dreiy Engineering, PLLC; Corpro Companies, Inc.; and Kleinfelder, Inc. Accordingly, the city states, and provides documentation showing, it notified the third parties of the request for information and of their rights to submit arguments to this office as to why the submitted information should not be released. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in the Act in certain circumstances). We have

received comments from Russell. We have reviewed the submitted information and the submitted arguments.

Initially, we note some of the submitted information is not responsive to the instant request because it does not pertain to the scoring information of the requestor's bid in response to solicitation number BMZ1610. This ruling does not address the public availability of the non-responsive information, which we have marked, and the city need not release it in response to the request.<sup>1</sup>

Next, we note Russell argues against disclosure of information not submitted to this office for review. This ruling does not address information beyond what the city has submitted to us for our review. *See* Gov't Code § 552.301(e)(1)(D) (governmental body requesting decision from attorney general must submit a copy of specific information requested). Accordingly, this ruling is limited to the information the city submitted as responsive to the request for information.

An interested third party is allowed ten business days after the date of its receipt of the governmental body's notice under section 552.305(d) to submit its reasons, if any, as to why information relating to that party should be withheld from public disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, we have not received comments from any third party explaining why the submitted responsive information should not be released. Accordingly, we have no basis to conclude any third party has a protected proprietary interest in the submitted responsive information, and the city may not withhold any portion of it on that basis. *See id.* § 552.110; Open Records Decision Nos. 661 at 5-6 (1999) (to prevent disclosure of commercial or financial information, party must show by specific factual evidence, not conclusory or generalized allegations, that release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish *prima facie* case that information is trade secret), 542 at 3. Accordingly, the city must release the submitted responsive information.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for

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<sup>1</sup>As we are able to make this determination, we need not address Russell's argument against disclosure of its information.

providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read "Gerald A. Arismendez". The signature is written in a cursive style with a large initial "G" and "A".

Gerald A. Arismendez  
Assistant Attorney General  
Open Records Division

GAA/som

Ref: ID# 658013

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

4 Third Parties  
(w/o enclosures)